

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

ALASKAN ANVIL, LLC,

Plaintiff,

v.

PATRICK DAVIS AND JANE DOE  
DAVIS,

Defendants.

CASE NO. C16-5796BHS

ORDER DENYING PLAINTIFF'S  
MOTION FOR SANCTIONS

This matter comes before the Court on Plaintiff Alaskan Anvil, LLC's ("Plaintiff") motion for sanctions (Dkt. 9). The Court has considered the pleadings filed in support of and in opposition to the motion and the remainder of the file and hereby denies the motion for the reasons stated herein.

**I. PROCEDURAL HISTORY**

On September 16, 2016, Plaintiff filed a complaint against Defendants Patrick and Jane Doe Davis ("Davis"). Dkt. 1.

On October 21, 2016, Plaintiff filed the instant motion requesting sanctions for Davis's refusal to waive service. Dkt. 9. On November 1, 2016, Davis responded. Dkt. 11. On November 9, 2016, Plaintiff replied. Dkt. 13.

**II. DISCUSSION**

An individual, corporation, or association that is subject to service under Rule 4(e), (f), or (h) has a duty to avoid unnecessary expenses of serving the summons. The

1 plaintiff may notify such a defendant that an action has been commenced and request that  
2 the defendant waive service of a summons. Fed. R. Civ. P. 4(d)(1). A plaintiff must  
3 “give the defendant a reasonable time of at least 30 days after the request was sent--or at  
4 least 60 days if sent to the defendant outside any judicial district of the United States--to  
5 return the waiver.” *Id.* 4(d)(1)(F).

6 In this case, Plaintiff has failed to show that it gave Davis a reasonable time to  
7 respond before filing this motion. Once Davis identified this flaw in Plaintiff’s position,  
8 Plaintiff responded by arguing that it “was clear that an impasse had been reached [and]  
9 further overtures would be an additional waste of time . . . .” Dkt. 13 at 2. No matter  
10 how great the impasse, the rule requires at least 30 days to respond. Although the Court  
11 agrees with Plaintiff that failure to accept service in a run-of-the-mill contract case  
12 undermines the spirit of Fed. R. Civ. P 1, the Court is without authority to award  
13 sanctions in this matter.

### 14 III. ORDER

15 Therefore, it is hereby **ORDERED** that Plaintiff’s motion for sanctions (Dkt. 9) is  
16 **DENIED**.

17 Dated this 15th day of December, 2016.



18  
19 BENJAMIN H. SETTLE  
20 United States District Judge  
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